IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 15TH MARCH 2007 / 24TH PHALGUNA 1928

WP(C).No. 32753 of 2006(S)

OP.1348/2005 of FAMILY COURT,THRISSUR

PETITIONER:

SHEENA, AGED 32 YEARS,
W/O. UNNIKRISHNAN AND D/O. BALAN, NADAKKAL HOUSE,
VAZHIYAMBALAM, KAIPAMANGALAM, KODUNGALLUR.

BY ADV. SRI.RENJITH THAMPAN

RESPONDENTS:

UNNIKRISHNAN, AGED 38 YEARS,
S/O. GOVINDAN, KAREKKADA HOUSE, KUZHIKKATTUKONAM,
MADAYIKONAM VILLAGE, THRISSUR DIST.

BY ADV. SRI.T.N.MANOJ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF I.A.NO.3491/06 ALONG WITH ACCOMPANYING AFFIDAVIT IN GOP.NO.1348/05.

EXT.P2 TRUE COPY OF THE COUNTER FILED BY THE PETITIONER IN GOP.NO.1348/05 DATED 16.11.06.

EXT.P3 TRUE COPY OF THE ORDER DATED 16.11.2006 IN I.A.NO.3491/06 IN OP.NO.1348/05.

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

AHZ/

KURIAN JOSEPH & K.T. SANKARAN, JJ.

W.P.(C). NO. 32753 OF 2006 S

Dated this the 15th day of March,2007

JUDGMENT

Kurian Joseph, J.

Ext.P3 order passed by the Family Court, Thrissur in I.A.No.3491 of 2006 in O.P.No.1348 of 2005 is under challenge. It is an order passed regarding temporary custody of the minor children. According to the petitioner, the order is passed without conducting proper enquiry as warranted under Section 13 of the Guardian and Wards Act. Though several other contentions are also taken, in the nature of the order we propose to pass and in the nature of the clear stand taken by the parties before this Court, it is not necessary to refer to such contentions. As per the impugned order, there is a direction to grant temporary custody of the two elder children to the respondent on second Saturdays and Sundays. Since the children are only aged six and two, the submission is that during night it will be conducive and in the better interest of the children to have custody with the mother during night.

In the above circumstances, the Writ Petition is disposed of making it clear that the custody of the two elder children granted to the respondent during second Saturdays and Sundays will only be during day time between 10 am to 5 pm and they will be taken back to the mother thereafter. The respondent will collect the children from the house of the petitioner during second Saturdays and Sundays at 10 am and return them there at 5 pm. There will also be a direction to the Family Court to dispose of the Original Petition itself expeditiously. It is also made clear that the Family Court shall make every effort to see whether a settlement of the dispute between the parties is possible, before disposal of the case on merits.

(KURIAN JOSEPH)
Judge

(K.T.SANKARAN)
Judge

ahz/

KURIAN JOSEPH&
K.T.SANKARAN, JJ.

L.A.A.NO. OF

JUDGMENT

February, 2007